

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

JAMES CREED,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 4:18-CV-00421-DGK
	)	
CEDAR FAIR, L.P.,	)	
	)	
Defendant.	)	

**ORDER DISMISSING CASE FOR LACK OF SUBJECT MATTER JURISDICTION**

This lawsuit stems from a water slide accident at the Oceans of Fun waterpark in Clay County, Missouri. Now before the Court is Plaintiff’s Amended Complaint (Doc. 4), the Court’s Order Directing Plaintiff to Show Cause Why Case Should Not Be Dismissed For Lack of Subject Matter Jurisdiction (Doc. 10), and Plaintiff’s response (Doc. 11).

The Court’s show cause order outlined the Court’s concerns related to subject matter jurisdiction and directed Plaintiff “to submit a brief . . . providing the missing information as to the parties’ citizenship and/or explaining why this case should not be dismissed for lack of subject matter jurisdiction.” Order at 6. Plaintiff’s response, however, does not provide the requisite information or otherwise explain how the Court possesses subject matter jurisdiction.

Plaintiff’s brief response complains that the Court ““accepted”” the Amended Complaint—perhaps intimating that because the Court accepted the Amended Complaint for filing, it is somehow estopped from realizing that it lacks subject matter jurisdiction to hear this dispute—and then states, “The Plaintiff is a Missouri resident. Diversity of citizens and amount in controversy has been satisfied and good cause shown. In conclusion, Jurisdiction [sic] is

proper for this Court to hear this case under 28 U.S. 1332 based on diversity of citizens.” Resp. at 2.

This response is insufficient to allege subject matter jurisdiction, much less establish it. Since the party invoking federal jurisdiction bears the burden of establishing it, *Bell v. Hershey Co.*, 557 F.3d 953, 956 (8th Cir. 2009), and Plaintiff has not carried his burden, this case is dismissed without prejudice. *Arbaugh v. Y&H Corp.*, 546 U.S. 500, 515 (2006) (“[W]hen a federal court concludes that it lacks subject-matter jurisdiction, the court must dismiss the complaint in its entirety.”)

**IT IS SO ORDERED.**

Date: September 27, 2018

/s/ Greg Kays  
GREG KAYS, CHIEF JUDGE  
UNITED STATES DISTRICT COURT